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NEIFELD IP LAW, PC 4813-B EISENHOWER AVENUE ALEXANDRIA, VA 22304				ALVAREZ, RAQUEL
ART UNIT		PAPER NUMBER		
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/776,714

Filing Date: February 06, 2001

Appellant(s): KATZ, GARY M.

Richard Neifeld
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 7/22/2010 appealing from the Office action

mailed 5/14/2010.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal:

PIP-69B-KATZ application 09/828,122, filed April 9, 2001

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims 66-88 are rejected and pending in this application.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the

subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

6,336,099 BARNETT et al. 1-2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 66, 68-75, 77-81, 85-88 are rejected under 35 U.S.C. 102(e) as being

anticipated by Barnett et al.(6,336,099 hereinafter Barnett).

With respect to claims 66, 72, 74-75, 81, 86 Barnett teaches a computer-

implemented method:

receiving, using an identification input device designed to receive identification information, a first consumer identification for a first consumer (i.e. receiving first consumer identification using personal computer 6)(Figure 1);

identifying, using a processor, promotions offered to said first consumer, by retrieving from a central database system in which consumer identifications are associated with promotion offers data for promotions previously offered to consumers, first consumer promotions offer data associated with said first consumer identification for promotions previously offered to said first consumer (i.e. coupon distributor 16 and

coupon issuer 14 maintaining information on redemption information on previous promotions issued to the first consumer/users)(see Figure 1);

determining, using said processor, and based at least in part upon said first consumer promotions offer data, a first consumer demographic characteristic of said first consumer (i.e. providing demographic data characteristic for the first consumer/user)See Figure 9);

determining, using said processor, and based at least in part upon said first consumer demographic characteristic, a time at which to transmit to said first consumer a subsequent promotion offer (i.e. using consumer demographic characteristics to determine and analyzing a time period of when to issue subsequent coupon package/sets)(see Figures 9-10).

With respect to claims 87 and 88 in addition to the limitations addressed above in claims 66, 75, Barnett further teaches a central database comprising a consumer identification table and a promotion table (see Figure 2).

With respect to claims 68-69, 77-78 Barnett further teaches wherein said time is also based upon the purchase history of said consumer and redemption history (i.e. redemption information).

With respect to claims 70-71, 79-80 Barnett further teaches wherein said subsequent promotions is delivered to an Internet protocol address associated with said first consumer (i.e. user's e-mail address)(col. 13., lines 60-65).

With respect to claims 73, 85 Barnett further teaches wherein said time is also based upon the value of said subsequent promotion offer (col. 13, lines 30-41).

Claims 67, 76, 82-84 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barnett.

Claims 67, 76, 82 further recite the time based upon the desirability of the consumer to a promoter during a particular time period. Official notice is taken that it is old and well known for promoters, advertisers and the like to account for how valuable or profitable a consumer is in order to time promotions accordingly. For example, a consumer that makes more purchases will receive offers more often than a consumer that doesn't redeem their offers in order to time offers accordingly. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included promotion offers time based upon the desirability of the consumer to a promoter in a particular time period in order to obtain the above mentioned advantage.

Claims 83-84 further recite the time of the offer being based upon a retail store providing the desired number of promotions during a particular time period and the

desirability of said first consumer to a retail store. Official Notice is taken that it is old and well known for retailers store and the like to issue coupons during a particular time period and for retailers to account for how valuable or profitable a consumer is in order to time promotions accordingly. For example, consumer that makes more purchases will receive offers more often from a retailer than a consumer that doesn't redeem their offers in order to time offers accordingly. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included the time of the offer being based upon a retail store providing the desired number of promotions during a particular time period and the desirability of said first consumer to a retail store in order to obtain the above mentioned advantage.

(10) Response to Argument

Appellant argues Barnett doesn't teach determining, using said processor, and based at least in part upon said first consumer demographic characteristic, a time at which to transmit to said first consumer a subsequent promotion offer. The Examiner disagrees with Appellant because Barnett teaches using consumer demographic data 42 and "when the printed coupons are presented at a retail store" (redemption information) (Abstract) to determine subsequent coupon packages (see Figure 10). Therefore contrary to Appellant's arguments, Barnett teaches analyzing redemption information including **when** (time) the printed coupons are presented in order to determine subsequent coupon packages to the customers. The coupon packages reflect the user's demographic data and redemption information including **when** (time)

the coupons are being redeemed in order to determine what type and **when** (time) to present subsequent promotion offers to the users.

With respect to the Official notice taken pertaining “that it is old and well known for promoters, advertisers and the like to account for how valuable or profitable a consumer is in order to time promotions accordingly. For example, a consumer that makes more purchases will receive offers more often than a consumer that doesn’t redeem their offers in order to time offers accordingly” Appellant argues that the conclusion is non sequitur because according to Appellant receiving more coupons is not the same as receiving coupons at different times. The Examiner respectfully disagrees with Appellant because if a consumer A being a consumer that makes more purchases than consumer B will receive coupons more often and at more times than consumer B which receives coupons less often. Therefore Consumer A and B will receive coupons at different times. Consumer A receiving coupons most of the time and consumer B receiving coupons sometimes.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner’s answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Raquel Alvarez/
Primary Examiner, Art Unit 3688

Conferees:

James Myhre /J. W. M./
Primary Examiner, Art Unit 3688

Eric Stamber/E. W. S./
Supervisory Patent Examiner, Art Unit 3622